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Attorneys for Plaintiff  
THIRTY THREE THREADS, INC.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

THIRTY THREE THREADS, INC., a  
California corporation

Plaintiff

vs.

LUCY APPAREL, LLC, a Delaware  
limited liability company; and DOES 1-10,  
inclusive

Defendants

Case No. '16CV0193 GPC JLB

**COMPLAINT FOR PATENT  
INFRINGEMENT OF U.S.  
PATENT NO. D707,036**

**DEMAND FOR JURY TRIAL**

**COMPLAINT**

Plaintiff, Thirty Three Threads, Inc., formerly known as Toesox, Inc.  
(hereinafter "Plaintiff"), for its Complaint against Lucy Apparel, LLC, states and  
alleges as follows:

**PARTIES**

1. Plaintiff, Thirty Three Threads, Inc., formerly known as Toesox, Inc., is

1 a corporation organized and existing under the laws of the State of California, and  
2 having a principal place of business at 1330 Park Center Drive, Vista, California  
3 92081.

4 2. Upon information and belief, Defendant Lucy Apparel, LLC (hereinafter  
5 “Lucy”) is a limited liability company organized and existing under the laws of the  
6 state of Delaware, and having a principal place of business at 3411 Silverside Road,  
7 Wilmington, Delaware 19810.

8 3. The true names and capacities of the Defendants named herein as DOES  
9 1 through 10, whether individual, corporate, associate, or otherwise, are unknown to  
10 Plaintiff, who therefore sues said Defendants by said fictitious names. Plaintiff is  
11 informed and believes, and thereon alleges, that each of the Defendants designated  
12 herein as DOE is legally responsible for the events and happenings hereinafter  
13 alleged and legally caused injury and damages proximately thereby to Plaintiff as  
14 herein alleged. Plaintiff will seek leave to amend the Complaint when the true names  
15 and capacities of said DOE Defendants have been ascertained. Lucy and DOES 1  
16 through 10 are hereinafter collectively referred to as “Defendants”.

17 4. Plaintiff is informed and believes, and on that basis alleges, that each of  
18 the Defendants participated in and is in some manner responsible for the acts  
19 described in this Complaint and any damages resulting therefrom.

20 5. Plaintiff is informed and believes, and on that basis alleges, that each of  
21 the Defendants has acted in concert and participation with each other concerning each  
22 of the claims in this Complaint.

23 6. Plaintiff is informed and believes, and on that basis alleges, that each of  
24 the Defendants were empowered to act as the agent, servant and/or employees of each  
25 of the other Defendants, and that all the acts alleged to have been done by each of  
26 them were authorized, approved and/or ratified by each of the other Defendants.

27 **JURISDICTION AND VENUE**

28 7. This action, as hereinafter more fully appears, arises under the patent

laws of the United States of America (35 U.S.C. §§1 *et seq.*), and is for patent infringement. Jurisdiction for all counts is based upon 28 U.S.C. §§1331, 1338(a) and (b).

8. Venue is proper under 28 U.S.C. §§1391(b) and (c) as Defendants have committed acts of infringement in this judicial district.

### **BACKGROUND OF THE CONTROVERSY**

9. On June 17, 2014, United States Patent No. D707,036 entitled “Sock” (“the ‘036 patent”) was duly and legally issued to Joe Patterson. Plaintiff is the record owner by assignment of the ‘036 patent with full and exclusive right to bring suit to enforce this patent. A true and correct copy of the ‘036 patent is attached hereto as Exhibit A.

10. The ‘036 patent relates generally to foot apparel, including a woven sock having a multitude of high friction buttons arrayed around the bottom thereof.

11. Prior to the initial filing of the instant action, Plaintiff purchased from Defendants a yoga sock. The sock is sold under the name “Lucy”. A true and correct photocopy of the Lucy product is attached hereto as Exhibit B.

12. Defendants’ sock product has no non-infringing use as it is solely intended to be worn as foot apparel, including as a yoga sock.

13. Defendants have been and are infringing the ‘036 patent by making, using, offering for sale, selling and/or importing the sock product. Defendants’ acts of infringement have occurred within this district and elsewhere throughout the United States.

### **FIRST CLAIM FOR RELIEF**

#### **(Patent Infringement of U.S. Patent No. D707,036)**

14. Plaintiff realleges and repeats the allegations of paragraphs 1-13 herein.

15. Plaintiff is the owner of all right, title and interest to United States Patent No. D707,036 entitled “Sock”. A true and correct copy of the ‘036 patent was duly and lawfully issued on June 17, 2014 and is presently valid and in full effect.



1 A. A judgment that Defendants have infringed, contributorily infringed,  
2 and/or induced infringement of the patents-in-suit;

3 B. A judgment that Defendants' infringement of the patents-in-suit has been  
4 willful;

5 C. A preliminary and permanent injunction, pursuant to 35 U.S.C. §283,  
6 enjoining Defendants, and all persons in active concert or participation with them,  
7 from any further acts of infringement, contributory infringement or inducement of  
8 infringement of the patents-in-suit;

9 D. An order, pursuant to 35 U.S.C. §284, awarding Plaintiff damages  
10 adequate to compensate Plaintiff for Defendants' infringement of the patents-in-suit,  
11 in an amount to be determined at trial, but in no event less than a reasonable royalty;

12 E. An order, pursuant to 35 U.S.C. §284, trebling all damages awarded to  
13 Plaintiff based on Defendants' willful infringement of the patents-in-suit;

14 F. An order, pursuant to 35 U.S.C. §285, finding that this is an exceptional  
15 case and awarding to Plaintiff its reasonable attorneys' fees incurred in this action;  
16 and

17 G. That Plaintiff have such other and further relief that the Court may deem  
18 just and proper.

19 Dated: January 25, 2016

STETINA BRUNDA GARRED & BRUCKER

21  
22 By: /s/Kit M. Stetina  
23 Kit M. Stetina  
24 Attorneys for Plaintiff  
THIRTY THREE THREADS, INC.

**DEMAND FOR JURY TRIAL**

Plaintiff, Thirty Three Threads, Inc. hereby demands a jury trial in this action.

Dated: January 25, 2016

STETINA BRUNDA GARRED & BRUCKER

By: /s/Kit M. Stetina

Kit M. Stetina

Attorneys for Plaintiff

THIRTY THREE THREADS INC.

# Exhibit A

(12)

United States Design Patent

Patterson

(10) Patent No.:

US D707,036 S

(45) Date of Patent:

\*\* Jun. 17, 2014

(54) SOCK

(71) Applicant: **ToeSox, Inc.**, Vista, CA (US)

(72) Inventor: **Joe Patterson**, Carlsbad, CA (US)

(73) Assignee: **ToeSox, Inc.**, Vista, CA (US)

(\*\*) Term: **14 Years**

(21) Appl. No.: **29/464,408**

(22) Filed: **Aug. 15, 2013**

(51) **LOC (10) Cl.** ..... **02-04**

(52) **U.S. Cl.**  
USPC ..... **D2/980**

(58) **Field of Classification Search**  
USPC ..... D2/897–898, 980–994, 902;  
2/239–242, 409; 66/178 R; 36/88, 94,  
36/102

See application file for complete search history.

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\* cited by examiner

Primary Examiner — T. Chase Nelson

Assistant Examiner — Kathleen M Sims

(74) Attorney, Agent, or Firm — Todd J. Langford; Eric A. Hanscom

(57) **CLAIM**

The ornamental design for a sock, as shown and described.

**DESCRIPTION**

FIG. 1 is a perspective view of a sock, showing my new design while in use;

FIG. 2 is a bottom view;

FIG. 3 is a left side view;

FIG. 4 is a back view;

FIG. 5 is a top view;

FIG. 6 is a front; and,

FIG. 7 is a right side view thereof.

The broken lines are included for the purpose of showing environmental structure and form no part of the claimed design.

(56) **References Cited**

U.S. PATENT DOCUMENTS

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5,867,838 A \* 2/1999 Corry ..... 2/239

5,906,007 A \* 5/1999 Roberts ..... 2/239

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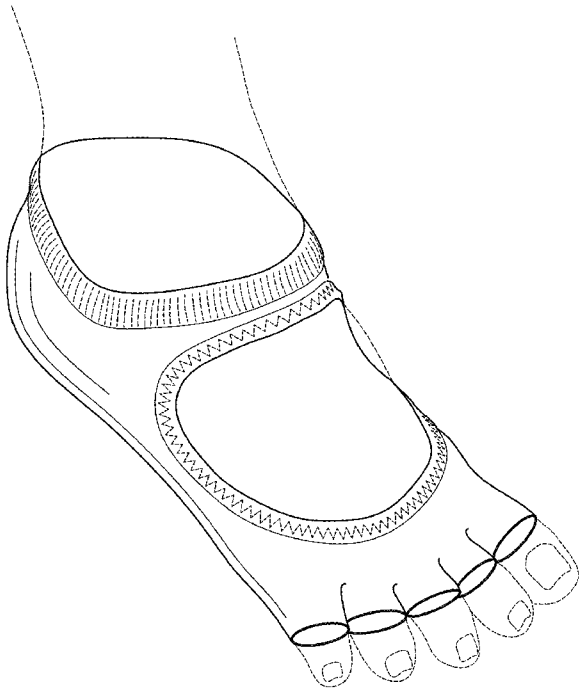
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1 Claim, 2 Drawing Sheets





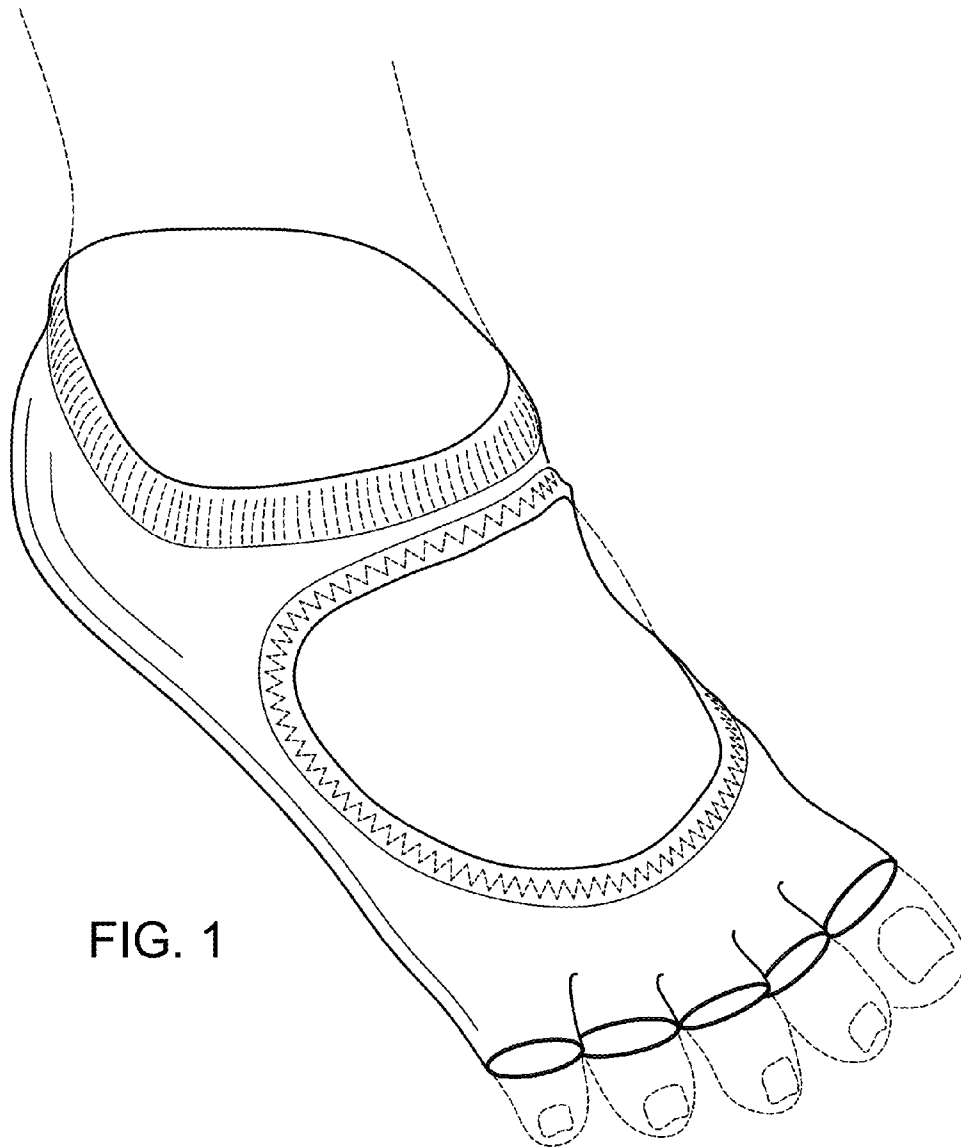


FIG. 1

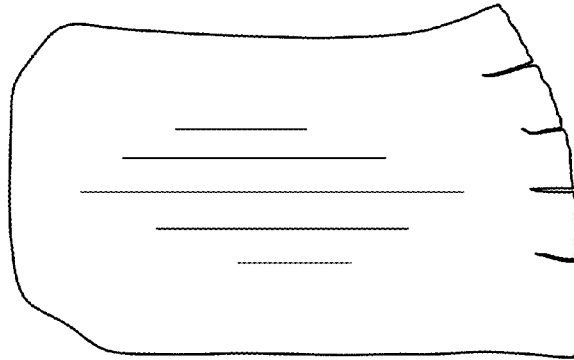


FIG. 2



FIG. 3

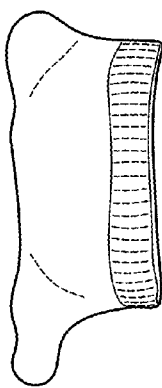


FIG. 4

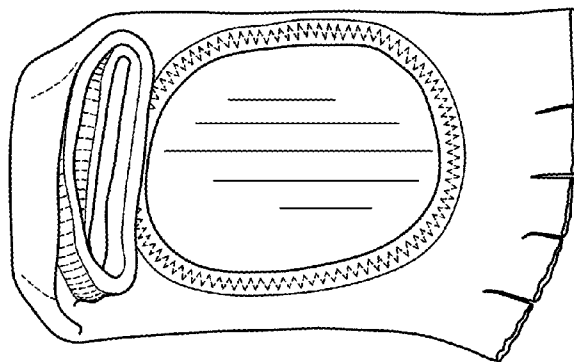


FIG. 5

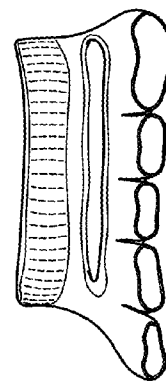


FIG. 6



FIG. 7

# Exhibit B





